IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.R.No.1168 of 2007

Date of Decision : 21.08.2007

Municipal Council, Rewari .....Petitioner

versus

Jai Bhagwan Singh and otherse .....Respondents

CORAM : HON'BLE MR.JUSTICE HEMANT GUPTA

Present: Mr.Sanjay S.Chauhan, Advocate for the petitioner.
Mr.J.V.Yadav, Advocate for respondent Nos.1 & 2.

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JUDGMENT

HEMANT GUPTA, J. (Oral)

The challenge in the present revision petition is to the order passed by the learned first Appellate Court, dated 3.1.2007 whereby the defendant Municipal Council was restrained from raising any construction in the public park for the purpose of construction of a library.

It is the case of the plaintiff that the land in front of House Nos.322 to 330 and 338 to 343 was given to the Municipal Council by the State Government for the purpose of park and the park is in existence. However, a resolution was passed by the Municipal Council to construct a library in the park which will change the nature of the park itself and the plaintiff sought injunction in respect of the construction of the library in the park.

Learned counsel for the petitioner has argued that the library is being constructed on an area measuring 666 square yards, whereas the total area of the park is 1875 square yards, therefore the library is being constructed on small part of the park area.

As per the communication dated 11.10.1983 from the Joint Secretary to Government Haryana, Rehabilitation Department, the area in front of House Nos.322 to 330 and 338 to 343 is to be maintained as park. Thus, the land has been allotted to the Municipal Council for the purpose of park. Therefore, the Municipal Council can not be permitted to construct library in an area which is almost 2/3rd of the park. The area to the extent of 1/3rd of the park area is sufficiently large so as to change the nature of the park.

I do not find any illegality or irregularity in the order passed by the learned first Appellate Court whereby the petitioner has been restrained from raising construction in the park, which may warrant interference of this Court in exercise of its revisional jurisdiction.

The revision petition stands dismissed.

Since the claim of the petitioner is to raise construction of library which is to be meant for the use of public at large, I deem it appropriate to direct the learned trial Court to decide the suit expeditiously, preferably within a period of one year. Needless it to add that any observation herein is meant for the purpose of deciding the application for ad-interim injunction. The learned trial Court shall decide the suit on the basis of evidence adduced during the course of trial and uninfluenced with the observations made herein.

21-08-2007 **(HEMANT GUPTA)**
mohinder* **JUDGE